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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re B. R., a Person Coming Under the
Juvenile Court Law.

B213389
(Los Angeles County Super. Ct.
No. FJ42297)

THE PEOPLE,

Plaintiff and Respondent,

v.

B. R.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County,
Shep Zebberman, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

James M. Crawford, under appointment by the Court of Appeal, for Defendant and
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Pamela C. Hamanaka, Senior Assistant Attorney General, Susan Sullivan Pithey
and Julie A. Harris, Deputy Attorneys General, for Plaintiff and Respondent.

Appellant B.R. was declared a ward of the juvenile court pursuant to Welfare and Institutions Code section 602 after she admitted receiving stolen property in violation of Penal Code section 496, subdivision (a).¹ An earlier order of home on probation was modified to require appellant to spend five days in juvenile hall and temporary placement of appellant was vested in the probation department. The court fixed her maximum period of confinement at three years eight months.

In her timely appeal, appellant argues the juvenile court erred in denying her motion to suppress evidence under section 700.1 and in establishing a maximum period of confinement. We affirm.

THE SECTION 700.1 HEARING TO SUPPRESS EVIDENCE

Los Angeles Police Officers Jesse Rosales and George Lopez responded to a radio call to provide backup support for gang officers based upon a report of a “415” fight involving 20 individuals at 232 West 53rd Street. Upon arrival at the location, Officers Rosales and Lopez saw appellant standing in front of the location. There were between 10-20 people in that area. Appellant, who had a purse over her shoulder, was detained and moved to the area where others were being detained.

Officer Lopez saw a purse on the ground near appellant and two other detained girls. Officer Lopez asked the three girls who the purse belonged to, and appellant replied, “It doesn’t belong to me.” She immediately looked to the right, with a nod of her head, to point to the other girls. Because none of the girls claimed connection to the purse, Officer Lopez picked it up to determine ownership. One of the other girls said, “That purse belongs to her. She’d better not blame me for it because she’s on parole.” Officer Lopez believed there was something illegal in the purse since the girl did not want to take the blame for it. Inside the purse was identification from “a victim of a purse snatch.”

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise stated.

The juvenile court denied the motion to suppress the evidence recovered in the search of the purse. First, the court ruled the evidence did not support a finding that appellant had a reasonable expectation of privacy in the purse. Second, the court ruled that the search of the purse was lawful. Appellant was properly detained to determine if she were one of the people involved in the fight. The detention was a brief, minimal intrusion for the purpose of investigation of the reported crime. It was reasonable for the officer to search the purse to establish ownership.

DISCUSSION

The Motion to Suppress Evidence

Appellant argues the juvenile court erred in denying her motion to suppress evidence. She contends she had a reasonable expectation of privacy in the purse because she was in possession of it when Officers Rosales and Lopez arrived at the scene of the radio call, and the prosecution was required to prove that appellant had dominion and control over the purse in order to establish the offense of receiving stolen property. On the merits, appellant argues when the officers arrived they saw no one fighting and there was no indication appellant had been involved in the reported crime.

A. Standard of Review

Denial of a motion to suppress evidence under section 700.1 is subject to the same standard of review as a denial of a motion to suppress evidence under Penal Code section 1538.5. The juvenile court first finds the facts, then selects the rule of law, and finally applies the rule of law to determine if there has been a constitutional violation. (*People v. Carter* (2005) 36 Cal.4th 1114, 1140.) The factual determinations of the court are reviewed for substantial evidence. (*Ibid.*) We independently review the court's selection of law and application of that law to the facts. (*Ibid.*)

B. Reasonable Expectation of Privacy

We agree with the juvenile court that appellant did not have a reasonable expectation of privacy in the purse. Because the motion to suppress the search was properly denied on this basis, we need not address the merits of the motion.

“Generally, evidence obtained in a warrantless search shall be excluded only if one having a legitimate expectation of privacy in the area searched shows deprivation of Fourth Amendment rights. (*Rakas v. Illinois* (1978) 439 U.S. 128, 143, 148.) ‘It is settled law that a disclaimer of proprietary or possessory interest in the area searched or the evidence discovered terminates the legitimate expectations of privacy over such area or items.’ (*People v. Stanislawski* (1986) 180 Cal.App.3d 748, 757, citing *United States v. Hawkins* (11th Cir.1982) 681 F.2d 1343, 1345.)” (*People v. Dasilva* (1989) 207 Cal.App.3d 43, 48.)

“To obtain suppression of evidence discovered in an unlawful search, a defendant has the burden of proving that he had a legitimate expectation of privacy. (*Rawlings v. Kentucky* (1980) 448 U.S. 98, 104.)” (*People v. Tolliver* (2008) 160 Cal.App.4th 1231, 1239.) “We will not extend California law to permit a defendant who disclaims possession of an object to take a contrary position in an effort to attain standing to seek to exclude that object from evidence.” (*People v. Dasilva, supra*, 207 Cal.App.3d at p. 49.)

It is apparent from the foregoing authorities that appellant had no reasonable expectation of privacy in a purse she abandoned and expressly disclaimed. To avoid application of these authorities, appellant cites *People v. Dees* (1990) 221 Cal.App.3d 588 (*Dees*) for the proposition that the prosecution may not take the position that a defendant has dominion and control of contraband for purposes of guilt, while at the same time arguing the defendant lacks a reasonable expectation of privacy in the property seized.

In *Dees*, officers responded to a radio call regarding a disturbance. On arrival, a resident reported that the defendant was removing property from the resident’s backyard. An officer saw a vehicle, with the driver’s window down and keys in the ignition. The officer testified that the defendant said the car belonged to him. The officer searched the car and recovered narcotics and paraphernalia in a canvas bag. (*Dees, supra*, 221 Cal.App.3d at

pp. 590-591.) The trial court denied a motion to suppress the fruits of the search of the vehicle on the basis the defendant lacked “standing,” despite the defendant’s statement at the scene that the vehicle was his. (*Id.* at p. 592.) The Court of Appeal disagreed, because the prosecution evidence established that the defendant claimed ownership of the vehicle, and it could not simultaneously maintain that the defendant lacked a reasonable expectation of privacy in the vehicle for purposes of a motion to suppress evidence. (*Id.* at pp. 595-596.)

Dees is clearly distinguishable from the instant case, because the prosecution presented no evidence that appellant claimed any interest in the purse, unlike the defendant in *Dees* who told the officer the vehicle searched was his. Unlike the facts in *Dees*, in this case the purse was abandoned on the ground and appellant expressly disclaimed any interest in it. The court in *Dees* acknowledged that the result is different in cases in which a defendant denies ownership of the property subject to a search and seizure. (*Dees, supra*, 221 Cal.App.3d at pp. 594-595.)

Appellant did not establish a reasonable expectation of privacy in a purse in which she denied any interest and which was left abandoned on the ground. The motion to suppress under section 700.1 was properly denied. As a result of this conclusion, we do not address appellant’s claim on the merits.

Maximum Period of Confinement

Appellant’s final argument is that the juvenile court lacked the authority to fix a maximum period of confinement because she was under an order for home on probation. The Attorney General responds that appellant was detained at the disposition hearing and ordered to spend five days in juvenile hall, and thus the juvenile court had the obligation to fix a maximum period of confinement.

At the disposition hearing, the juvenile court left an existing home on probation order in full force and effect, with modifications including that appellant be immediately detained in juvenile hall for five days, as continuance in the home of the parents or guardian was contrary to her interest. Temporary placement and care was vested in the probation

department, pending further order of the court. Services were to be provided to reunify appellant with her family. Appellant was to be released to her grandmother after her juvenile hall detention.

Section 726, subdivision (c), provides as follows: “If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.” In the absence of removal from the physical custody of a parent or guardian, the juvenile court lacks the authority to fix a maximum period of physical confinement. (*In re Matthew A.* (2008) 165 Cal.App.4th 537, 541.)

Under the disposition, appellant was removed from the custody of her parent or guardian for five days as a result of an order of wardship made pursuant to section 602. In addition, temporary care and placement of minor was vested in the probation department pending further order of the court. Given the plain language of section 726, the juvenile court had the authority to fix a maximum period of confinement.

DISPOSITION

The judgment is affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.